

Message Text

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ACTION NEA-10

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STADIS //

E.O. 11652: N/A
TAGS: BEXP ETRD MU
SUBJECT: MAY U.S. FIRMS USE AN OMAN GOVERNMENT AGENT?

REF: MUSCAT 0581

1. FOLLOWING THE INTERNATIONAL HARVESTER CASE (REFTEL, ANOTHER AMERICAN COMPANY HAS RUN INTO POTENTIAL TROUBLE WITH THE SEC AND IRS OVER ITS CHOICE OF AGENT IN OMAN. THE TECHNOLOGIES, AFTER OBTAINING THE SERVICES OF ALAWI ENTERPIRSES (OWNED ENTIRELY BY FOREIGN MINISTER QAIS ZAWAWI), WAS BELATEDLY TOLD BY LEGAL COUNSEL IN THE U.S. THAT THEY WOULD HAVE TO SEVER THEIR CONNECTION WITH ALAWI SINCE THE SEC AND IRS REGARDED SUCH AGENCY AGREEMENTS WITH A COMPANY OWNED BY A LOCAL GOVERNMENT OFFICIAL AS A POTENTIAL BRIBE. WHEN UNITED TECHNOLOGIES INTERNATIONAL'S MIDDLE EAST DIRECTOR TRIED TO TRANSFER THE AGENCY AGREEMENT FROM ALAWI TO A PRIVATELY OWNED COMPANY, ALAWI'S WELL-CONNECTED BRITISH
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MANAGER CLAIMED THIS WAS A VIOLATION OF COMMERCIAL ETHICS AND THREATENED TO ENSURE THAT U.T. WOULD NEVER DO BUSINESS AGAIN IN THE SULTANATE. IN ORDER TO SOLVE THE IMPASSE, WE DIRECTED THE UNITED TECHNOLOGIES REP TO AN AMERICAN LAWYER REPRESENTING A NEW YORK LAW FIRM WITH A BRANCH IN OMAN.

2. THE LAWYER WAS QUITE SURE THAT UNITED TECHNOLOGIES COULD LEGALLY ENTER INTO AN AGENCY AGREEMENT WITH A FIRM OWNED BY AN OMANGOV OFFICIAL. HE CITED CHRYSLER CORPORATION'S ONGOING AGENT/DISTRIBUTOR AGREEMENT WITH ZUBAIR AUTOMOTIVE (OWNED BY COMMERCE MINISTER MOHAMMED ZUBAIR) AND SUGGESTED THAT CHRYSLER'S ARRANGEMENT WITH ZUBAIR BE USED AS A MODEL. THERE ARE ALSO MORE COMPLICATED ALTERNATIVES FOR DOING AGENCY BUSINESS THROUGH THIRD PARTIES. THE LAWYER NOTED, HOWEVER, THAT ANY SORT OF AGENCY AGREEMENTS WITH A GOVERNMENT OFFICIAL WOULD INVOLVE PUBLIC DISCLOSURE TO THE SEC.

3. THE ZAWAWI AND ZUBAIR COMPANIES ARE THE OBVIOUS EXAMPLES OF POWERFUL GOVERNMENT FIRMS WITH LITTLE U.S. REPRESENTATION BECAUSE OF AMERICAN COMPANIES' FEAR OF BEING CITED FOR IMPROPER PAYMENTS. UNFORTUNATELY, THESE TWO COMPANIES HAVE A KEY POSITION IN DEFENSE, ELECTRIC POWER, AND OTHER IMPORTANT SECTORS WHERE U.S. EXPORTS ARE LOW. OTHER OMANGOV OFFICIALS ARE BECOMING MORE ACTIVE IN TAKING PART OWNERSHIP OF BUSINESS VENTURES, AND THIS PROBLEM MAY BECOME A RECURRING IMPEDIMENT TO U.S. BUSINESS HERE.

4. ACTION REQUESTED: WE WOULD APPRECIATE THE DEPARTMENT'S ADVICE ON HOW BUSINESS RELATIONSHIPS WITH COMPANIES BELONGING TO LOCAL GOVERNMENT OFFICIALS CAN BE RECONCILED
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WITH SEC AND OTHER U.S. GOVERNMENT REGULATIONS. WE WOULD ALSO LIKE TO HEAR FROM OTHER GULF POSTS AFFECTED BY THESE POTENTIAL CONFLICTS OF INTEREST.
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